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Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SANDRA C. THORNELL, *et al.*,

Plaintiffs,

vs.

SEATTLE SERV. BUREAU, INC. d/b/a
NATIONAL SERV. BUREAU, INC., *et al.*,

Defendants.

Case No.: 2:14-CV-01601-MJP

SEATTLE SERVICE BUREAU, INC.'S
JOINDER IN STATE FARM'S MOTION TO
DISMISS AND MOTION TO STRIKE

NOTE ON THE MOTION CALENDAR:
November 14, 2014

[Oral Argument Requested]

Pursuant to *FRCP 12(b) (6)* and *FRCP 12 (f)*, defendant Seattle Service Bureau, Inc. (SSB), by and through its attorney, Jeffrey I. Hasson, joins defendant State Farm Mutual Automobile Company's ("State Farm") Motion to Dismiss and Motion to Strike [ECF No. 9] and moves the court to dismiss this case for the reason that Plaintiffs have failed to state a claim upon which relief can be granted against SSB and because the class allegations of the Complaint should be stricken.

The motion is based on the Plaintiffs' Complaint [ECF No. 1-1] ("Plaintiffs' Complaint"), the Points and Authorities below, the files and records in this matter, Defendant SEATTLE SERVICE BUREAU, INC.'S JOINDER IN STATE FARM'S MOTIONS -- Page 1
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State Farm’s Motion to Dismiss [ECF No. 9], and *FRCP 12(b)(6)* and *FRCP (f)* which are fully incorporated by this reference.

POINTS AND AUTHORITIES

1. JURISDICTION

The court has jurisdiction based on diversity as noted in the removal documents [ECF No. 1].

2. STATEMENT OF FACTS.

SSB joins in State Farm’s Statement of Facts [ECF No. 9 §§ II] for purposes of this Motion.

3. LEGAL STANDARD

A motion to dismiss for failure to state a claim pursuant to *FRCP 12(b) (6)* tests the legal sufficiency of the claims in the Plaintiffs’ Complaint. The review is limited to the Complaint, and all allegations of material fact are taken as true and viewed in the light most favorable to the non-moving party. *Cassettari v. Nevada County, Cal.*, 824 F.2d 735, 737 (9th Cir.1987).

“To survive a motion to dismiss, a Complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’ A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 556 US 662, 678, 129 S. Ct. 1937, 1949, 173 L.Ed.2d 868, 884 (2009).

A Plaintiffs’ factual allegations must raise a right to relief “above the speculative level.” *See Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 127 S.Ct. 1955, 1964-65 (2007); 5 C. Wright and A. Miller, *Federal Practice and Procedure* § 1216, pp. 235-236 (3d ed. 2004) (“The pleading must contain something more...than...a statement of facts that merely creates a suspicion of a legally cognizable right of action”).

It is a Plaintiffs’ obligation to provide the “grounds” of his entitlement to relief which requires more than labels and conclusions. *Id.*

1 A Complaint does not suffice “if it offers naked assertions devoid of further factual
2 enhancement.” *Ashcroft v. Iqbal*, 129 S. Ct. at 1949 “Where a Complaint pleads facts that are
3 ‘merely consistent with a defendant’s liability’, it ‘stops short of the line between possibility and
4 plausibility of entitlement to relief.’ It demands more than an unadorned, the defendant
5 unlawfully harmed me accusation.” *Id.*

6 **4. ARGUMENT.**

7 SSB incorporates the arguments made by State Farm. [ECF No. 9] as follows:

8 **A. Plaintiffs’ WCPA Claim against SSB Fails because the WCPA cannot be applied**
9 **extraterritorially to Plaintiffs’ Claims.**

10 SSB incorporates the arguments made by State Farm on this topic. [ECF No. 9 § IV (A)
11 (2)].

12 **B. Plaintiffs’ Unjust Enrichment Claim against SSB Fails because Plaintiffs cannot**
13 **plead that she conferred any benefit on SSB.**

14 SSB incorporates the arguments made by State Farm on this topic. [ECF No. 9 § IV (B)].

15 **C. Plaintiffs’ Requests for Declaratory and Injunctive Relief should be Dismissed**
16 **because Plaintiffs have pleaded an Adequate Remedy at Law in the Form of**
17 **Damages.**

18 SSB incorporates the arguments made by State Farm on this topic except that SSB does
19 not concede any damages to Plaintiffs under the WCPA. SSB only acknowledges that Plaintiffs
20 have pleaded an adequate remedy at law in the form of damages. [ECF No. 9 §§ IV (C)].

21 **D. Motion to Strike Plaintiffs’ Class Action Allegations.**

22 SSB incorporates the arguments made by State Farm on this topic. [ECF No. 9 § IV (D)].

23 **(1) Plaintiff Lacks Standing to Represent the Putative Class.**

24 SSB incorporates the arguments made by State Farm on this topic. [ECF No. 9 § IV (D)
25 (1)].

26 **(2) Plaintiff’s Claims are not Typical of the Putative Class.**

SSB incorporates the arguments made by State Farm on this topic. [ECF No. 9 § IV (D)]

1 (2)].

2 **(3) Plaintiffs' Proposed Nationwide Class Action would be Unmanageable.**

3 SSB incorporates the arguments made by State Farm on this topic. [ECF No. 9 § IV (D)

4 (3)].

5 **5. CONCLUSION**

6 For the reasons set forth in State Farm's Motion, this Court should dismiss the
7 Complaint. Further, to the extent that any of the claims survive, the Court should strike the class
8 action allegations in the Complaint.

9 Dated: October 23, 2014.

10 s/ Jeffrey I. Hasson

11 Jeffrey I. Hasson, WSBA#23741

12 Davenport & Hasson, LLP

13 Phone: (503) 255-5352

14 Attorney for SSB

CERTIFICATE OF SERVICE

I hereby certify that on October 23, 2014, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

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and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants: _____.

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